



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1419

Introduced 2/9/2007, by Sen. Debbie DeFrancesco Halvorson

SYNOPSIS AS INTRODUCED:

415 ILCS 5/9.10

415 ILCS 5/10

from Ch. 111 1/2, par. 1010

Amends the Environmental Protection Act. In a Section regarding the control and reduction of emissions from fossil fuel-fired electric generating plants, provides that the Section is not intended to limit or restrict the authority of the Illinois Environmental Protection Agency to propose, or the Illinois Pollution Control Board to adopt, any regulations applicable or that may become applicable to these facilities that are required by federal law or that are otherwise part of the State's plan to attain the national ambient air quality standards or that are necessary to comply with the requirements of the federal Clean Air Act (now, just the applicable regulations required by federal law). Deletes a provision requiring the Board to adopt certain sulfur dioxide regulations and emission standards for existing fuel combustion stationary emission sources. Effective immediately.

LRB095 01629 CMK 21631 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 9.10 and 10 as follows:

6 (415 ILCS 5/9.10)

7 Sec. 9.10. Fossil fuel-fired electric generating plants.

8 (a) The General Assembly finds and declares that:

9 (1) fossil fuel-fired electric generating plants are a
10 significant source of air emissions in this State and have
11 become the subject of a number of important new studies of
12 their effects on the public health;

13 (2) existing state and federal policies, that allow
14 older plants that meet federal standards to operate without
15 meeting the more stringent requirements applicable to new
16 plants, are being questioned on the basis of their
17 environmental impacts and the economic distortions such
18 policies cause in a deregulated energy market;

19 (3) fossil fuel-fired electric generating plants are,
20 or may be, affected by a number of regulatory programs,
21 some of which are under review or development on the state
22 and national levels, and to a certain extent the
23 international level, including the federal acid rain

1 program, tropospheric ozone, mercury and other hazardous
2 pollutant control requirements, regional haze, and global
3 warming;

4 (4) scientific uncertainty regarding the formation of
5 certain components of regional haze and the air quality
6 modeling that predict impacts of control measures requires
7 careful consideration of the timing of the control of some
8 of the pollutants from these facilities, particularly
9 sulfur dioxides and nitrogen oxides that each interact with
10 ammonia and other substances in the atmosphere;

11 (5) the development of energy policies to promote a
12 safe, sufficient, reliable, and affordable energy supply
13 on the state and national levels is being affected by the
14 on-going deregulation of the power generation industry and
15 the evolving energy markets;

16 (6) the Governor's formation of an Energy Cabinet and
17 the development of a State energy policy calls for actions
18 by the Agency and the Board that are in harmony with the
19 energy needs and policy of the State, while protecting the
20 public health and the environment;

21 (7) Illinois coal is an abundant resource and an
22 important component of Illinois' economy whose use should
23 be encouraged to the greatest extent possible consistent
24 with protecting the public health and the environment;

25 (8) renewable forms of energy should be promoted as an
26 important element of the energy and environmental policies

1 of the State and that it is a goal of the State that at
2 least 5% of the State's energy production and use be
3 derived from renewable forms of energy by 2010 and at least
4 15% from renewable forms of energy by 2020;

5 (9) efforts on the state and federal levels are
6 underway to consider the multiple environmental
7 regulations affecting electric generating plants in order
8 to improve the ability of government and the affected
9 industry to engage in effective planning through the use of
10 multi-pollutant strategies; and

11 (10) these issues, taken together, call for a
12 comprehensive review of the impact of these facilities on
13 the public health, considering also the energy supply,
14 reliability, and costs, the role of renewable forms of
15 energy, and the developments in federal law and regulations
16 that may affect any state actions, prior to making final
17 decisions in Illinois.

18 (b) Taking into account the findings and declarations of
19 the General Assembly contained in subsection (a) of this
20 Section, the Agency shall, before September 30, 2004, but not
21 before September 30, 2003, issue to the House and Senate
22 Committees on Environment and Energy findings that address the
23 potential need for the control or reduction of emissions from
24 fossil fuel-fired electric generating plants, including the
25 following provisions:

26 (1) reduction of nitrogen oxide emissions, as

1 appropriate, with consideration of maximum annual
2 emissions rate limits or establishment of an emissions
3 trading program and with consideration of the developments
4 in federal law and regulations that may affect any State
5 action, prior to making final decisions in Illinois;

6 (2) reduction of sulfur dioxide emissions, as
7 appropriate, with consideration of maximum annual
8 emissions rate limits or establishment of an emissions
9 trading program and with consideration of the developments
10 in federal law and regulations that may affect any State
11 action, prior to making final decisions in Illinois;

12 (3) incentives to promote renewable sources of energy
13 consistent with item (8) of subsection (a) of this Section;

14 (4) reduction of mercury as appropriate, consideration
15 of the availability of control technology, industry
16 practice requirements, or incentive programs, or some
17 combination of these approaches that are sufficient to
18 prevent unacceptable local impacts from individual
19 facilities and with consideration of the developments in
20 federal law and regulations that may affect any state
21 action, prior to making final decisions in Illinois; and

22 (5) establishment of a banking system, consistent with
23 the United States Department of Energy's voluntary
24 reporting system, for certifying credits for voluntary
25 offsets of emissions of greenhouse gases, as identified by
26 the United States Environmental Protection Agency, or

1 other voluntary reductions of greenhouse gases. Such
2 reduction efforts may include, but are not limited to,
3 carbon sequestration, technology-based control measures,
4 energy efficiency measures, and the use of renewable energy
5 sources.

6 The Agency shall consider the impact on the public health,
7 considering also energy supply, reliability and costs, the role
8 of renewable forms of energy, and developments in federal law
9 and regulations that may affect any state actions, prior to
10 making final decisions in Illinois.

11 (c) Nothing in this Section is intended to or should be
12 interpreted in a manner to limit or restrict the authority of
13 the Illinois Environmental Protection Agency to propose, or the
14 Illinois Pollution Control Board to adopt, any regulations
15 applicable or that may become applicable to the facilities
16 covered by this Section (i) that are required by federal law,
17 (ii) that are otherwise part of the State's plan to attain the
18 national ambient air quality standards, or (iii) that are
19 necessary to comply with the requirements of the federal Clean
20 Air Act.

21 (d) The Agency may file proposed rules with the Board to
22 effectuate its findings provided to the Senate Committee on
23 Environment and Energy and the House Committee on Environment
24 and Energy in accordance with subsection (b) of this Section.
25 Any such proposal shall not be submitted sooner than 90 days
26 after the issuance of the findings provided for in subsection

1 (b) of this Section. The Board shall take action on any such
2 proposal within one year of the Agency's filing of the proposed
3 rules.

4 (e) This Section shall apply only to those electrical
5 generating units that are subject to the provisions of Subpart
6 W of Part 217 of Title 35 of the Illinois Administrative Code,
7 as promulgated by the Illinois Pollution Control Board on
8 December 21, 2000.

9 (Source: P.A. 92-12, eff. 7-1-01; 92-279, eff. 8-7-01.)

10 (415 ILCS 5/10) (from Ch. 111 1/2, par. 1010)

11 Sec. 10. Regulations.

12 (A) The Board, pursuant to procedures prescribed in Title
13 VII of this Act, may adopt regulations to promote the purposes
14 of this Title. Without limiting the generality of this
15 authority, such regulations may among other things prescribe:

16 (a) Ambient air quality standards specifying the
17 maximum permissible short-term and long-term
18 concentrations of various contaminants in the atmosphere;

19 (b) Emission standards specifying the maximum amounts
20 or concentrations of various contaminants that may be
21 discharged into the atmosphere;

22 (c) Standards for the issuance of permits for
23 construction, installation, or operation of any equipment,
24 facility, vehicle, vessel, or aircraft capable of causing
25 or contributing to air pollution or designed to prevent air

1 pollution;

2 (d) Standards and conditions regarding the sale,
3 offer, or use of any fuel, vehicle, or other article
4 determined by the Board to constitute an air-pollution
5 hazard;

6 (e) Alert and abatement standards relative to
7 air-pollution episodes or emergencies constituting an
8 acute danger to health or to the environment;

9 (f) Requirements and procedures for the inspection of
10 any equipment, facility, vehicle, vessel, or aircraft that
11 may cause or contribute to air pollution;

12 (g) Requirements and standards for equipment and
13 procedures for monitoring contaminant discharges at their
14 sources, the collection of samples and the collection,
15 reporting and retention of data resulting from such
16 monitoring.

17 (B) (Blank). ~~The Board shall adopt sulfur dioxide~~
18 ~~regulations and emission standards for existing fuel~~
19 ~~combustion stationary emission sources located in all areas of~~
20 ~~the State of Illinois, except the Chicago, St. Louis (Illinois)~~
21 ~~and Peoria major metropolitan areas, in accordance with the~~
22 ~~following requirements:~~

23 ~~(1) Such regulations shall not be more restrictive than~~
24 ~~necessary to attain and maintain the "Primary National~~
25 ~~Ambient Air Quality Standards for Sulfur Dioxide" and~~
26 ~~within a reasonable time attain and maintain the "Secondary~~

1 ~~National Ambient Air Quality Standards for Sulfur~~
2 ~~Dioxide."~~

3 ~~(2) Such regulations shall be based upon ambient air~~
4 ~~quality monitoring data insofar as possible, consistent~~
5 ~~with regulations of the United States Environmental~~
6 ~~Protection Agency. To the extent that air quality modeling~~
7 ~~techniques are used for setting standards, such techniques~~
8 ~~shall be fully described and documented in the record of~~
9 ~~the Board's rulemaking proceeding.~~

10 ~~(3) Such regulations shall provide a mechanism for the~~
11 ~~establishment of emission standards applicable to a~~
12 ~~specific site as an alternative to a more restrictive~~
13 ~~general emission standard. The Board shall delegate~~
14 ~~authority to the Agency to determine such specific site~~
15 ~~emission standards, pursuant to regulations adopted by the~~
16 ~~Board.~~

17 ~~(4) Such regulations and standards shall allow all~~
18 ~~available alternative air quality control methods~~
19 ~~consistent with federal law and regulations.~~

20 (C) The Board may not adopt any regulation banning the
21 burning of landscape waste throughout the State generally. The
22 Board may, by regulation, restrict or prohibit the burning of
23 landscape waste within any geographical area of the State if it
24 determines based on medical and biological evidence generally
25 accepted by the scientific community that such burning will
26 produce in the atmosphere of that geographical area

1 contaminants in sufficient quantities and of such
2 characteristics and duration as to be injurious to humans,
3 plant, or animal life, or health.

4 (D) The Board shall adopt regulations requiring the owner
5 or operator of a gasoline dispensing system that dispenses more
6 than 10,000 gallons of gasoline per month to install and
7 operate a system for the recovery of gasoline vapor emissions
8 arising from the fueling of motor vehicles that meets the
9 requirements of Section 182 of the federal Clean Air Act (42
10 USC 7511a). These regulations shall apply only in areas of the
11 State that are classified as moderate, serious, severe or
12 extreme nonattainment areas for ozone pursuant to Section 181
13 of the federal Clean Air Act (42 USC 7511), but shall not apply
14 in such areas classified as moderate nonattainment areas for
15 ozone if the Administrator of the U.S. Environmental Protection
16 Agency promulgates standards for vehicle-based (onboard)
17 systems for the control of vehicle refueling emissions pursuant
18 to Section 202(a)(6) of the federal Clean Air Act (42 USC
19 7521(a)(6)) by November 15, 1992.

20 (E) The Board shall not adopt or enforce any regulation
21 requiring the use of a tarpaulin or other covering on a truck,
22 trailer, or other vehicle that is stricter than the
23 requirements of Section 15-109.1 of the Illinois Vehicle Code.
24 To the extent that it is in conflict with this subsection, the
25 Board's rule codified as 35 Ill. Admin. Code, Section 212.315
26 is hereby superseded.

1 (F) Any person who prior to June 8, 1988, has filed a
2 timely Notice of Intent to Petition for an Adjusted RACT
3 Emissions Limitation and who subsequently timely files a
4 completed petition for an adjusted RACT emissions limitation
5 pursuant to 35 Ill. Adm. Code, Part 215, Subpart I, shall be
6 subject to the procedures contained in Subpart I but shall be
7 excluded by operation of law from 35 Ill. Adm. Code, Part 215,
8 Subparts PP, QQ and RR, including the applicable definitions in
9 35 Ill. Adm. Code, Part 211. Such persons shall instead be
10 subject to a separate regulation which the Board is hereby
11 authorized to adopt pursuant to the adjusted RACT emissions
12 limitation procedure in 35 Ill. Adm. Code, Part 215, Subpart I.
13 In its final action on the petition, the Board shall create a
14 separate rule which establishes Reasonably Available Control
15 Technology (RACT) for such person. The purpose of this
16 procedure is to create separate and independent regulations for
17 purposes of SIP submittal, review, and approval by USEPA.

18 (G) Subpart FF of Subtitle B, Title 35 Ill. Adm. Code,
19 Sections 218.720 through 218.730 and Sections 219.720 through
20 219.730, are hereby repealed by operation of law and are
21 rendered null and void and of no force and effect.

22 (Source: P.A. 88-381; 89-79, eff. 6-30-95.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.